

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)	
)	Case No. 2:12-cv-01282-JLR
Plaintiff,)	
)	CITY OF SEATTLE’S SUSTAINMENT
v.)	PERIOD UPDATE
)	
CITY OF SEATTLE,)	
)	
Defendant.)	
_____)	

The second phase of the Consent Decree, the “Sustainment Period” is halfway complete and the Court-approved schedule requires the parties and the Monitoring Team to provide a “general, overall update to the Court on the current status of progress and sustainment of required Consent Decree reforms.” Dkt. 444-1 at 29. The City of Seattle, accordingly, submits this report which reviews the key reforms that have been made under the Consent Decree and summarizes the Seattle Police Department’s recent progress in demonstrating that it has continued to sustain compliance.

I. BACKGROUND

The City and the United States entered into a settlement agreement (the “Consent Decree”) which was approved by the Court on August 30, 2012. The Consent Decree was intended to address findings made by the U.S. Department of Justice (DOJ) in a 2011 investigation of the

1 Seattle Police Department (SPD). To that end, the Consent Decree imposes extensive policy,
2 operational, and training requirements on SPD, which can be loosely grouped into six main areas:
3 use of force; responding to people in crisis; stops and detentions; bias-free policing; supervision;
4 and the collection and tracking of data on policing.

5 The Consent Decree separates the City's obligations into two distinct phases. In Phase I,
6 the City must attain "full and effective compliance." The Court found, on January 10, 2018, that
7 the City had met this requirement.

8 To complete Phase II, the City must sustain compliance for two years. ¶¶ 229-30.

9 **A. Between 2013 and 2015, SPD Implemented Comprehensive Consent Decree Reforms**
10 **Affecting Nearly Every Aspect of its Operations.**

11 As required by the Consent Decree, SPD developed comprehensive policies to address all
12 areas of the consent decree. The policies were developed through a rigorous drafting and revision
13 process that involved the Monitor and the Department of Justice, SPD command staff and patrol
14 officers, the two police unions, the Community Police Commission, and the general public during
15 a period of public comment. This intensive process yielded new policies based on national best
16 practices and constitutional principles. The Court reviewed and approved each policy.

17 Since these policies became effective, SPD has continued to work with DOJ and the
18 Monitor to refine and improve them, with additional input from Office of Police Accountability,
19 the Office of the Inspector General for Public Safety, and the Community Police Commission.
20 Several cycles of revisions have taken effect since then, consistent with the Consent Decree
21 requirement that the Department review these policies annually. Consent Decree. ¶ 180. This
22 section highlights major changes which have occurred under the Consent Decree.
23

1 SPD also placed top priority on developing and implementing new training for all of its
2 employees. Describing the extraordinary training accomplishments made by SPD, the Monitor
3 wrote the following:

4 [By the end of 2014, all officers had] received 32 hours of in-class
5 training on the new force-related policies, at least eight hours of live
6 training on how officers should deal with the mentally ill and others
7 in behavioral crisis (“crisis intervention”), and eight hours of
8 training on stops, detentions, and bias-free policing. Select SPD
9 officers (also known as “CI Certified” officers) have received at
10 least eight hours of related training on crisis intervention, and SPD
11 dispatchers and communications personnel received three hours on
12 identifying crisis situations when 9-1-1 calls come in. . . . [A]s of
13 January 1, 2015, . . . all officers will have received the same,
14 comprehensive picture of the new policies on force, bias-free
15 policing, stops, and crisis intervention.

16 *Id.*

17 i. Use of Force

18 DOJ’s investigation found a pattern of officers using force when it was not warranted or
19 using more force than was reasonable. Accordingly, overhauling SPD’s force policies and training
20 were the most pressing priorities and this area is where the first and most far-reaching changes
21 were made.

22 The Monitor submitted the new policies to the Court on November 27, 2013, and, after
23 hearing from the Community Police Commission, DOJ, and the Monitor, the Court approved them.
Dkts. 107 & 118. The Monitor highly praised the new policies, writing, “SPD’s use of force policy,
approved by the Court in December 2013, is the embodiment of the Consent Decree. It provides
officers with clear guidance and expectations consistent with constitutional imperatives.”
Monitor’s Fourth Semiannual Rept. at 20. The Monitor also concluded that the new policies

1 contain “detailed, precise guidelines that provide line officers and supervisors alike with clear
2 guidance on performance expectations.” *Monitor’s Third Semiannual Rept.* at 13-16.

3 The basic use-of-force policy is four pages long, entitled “Using Force.” Under this policy
4 “[o]fficers shall only use objectively reasonable force, proportional to the threat or urgency of the
5 situation, when necessary, to achieve a law enforcement objective.” The policy sets out four key
6 principles to guide officers:

- 7 • Reasonableness. the reasonableness of force depends on “the totality of circumstances
8 known by the officer at the time of the use of force”—not “the 20/20 vision of hindsight.”
- 9 • Necessity. Force may be used only in the absence of “reasonably effective alternative[s].”
- 10 • Proportionality. “To be proportional, the level of force applied must reflect the totality of
11 circumstances surrounding the immediate situation, including the presence of an imminent
12 danger to officers or others.” Officers “should assess and modulate the use-of-force as
13 resistance decreases.”
- 14 • De-escalation. Officers must attempt de-escalation tactics when safe and feasible.
15 “[O]fficers shall attempt to slow down or stabilize the situation so that more time, options
16 and resources are available for incident resolution.” The policy identifies de-escalation
17 techniques, such as creating distance, cover, [or] concealment” and “using verbal
18 techniques” to gain compliance.” (Effective January 1, 2019, de-escalation has been pulled
19 out and made into a stand-alone policy.)

20 In addition to these principles, force is expressly prohibited in some circumstances—such as a
21 means of retaliation and against individuals who only verbally confront officers.

22 DOJ also determined in 2011 that, although officers were required to report using force,
23 they often did not do so. When officers did report force, the chain of command frequently failed
to adequately review or investigate it. To address those findings, the Department now has two
policies that contain detailed requirements and direction for how and when to report, investigate,
and review force. SPM §§ 8.400 & 8.500. As described below, depending on the type of force,
one or more supervisors in the officer’s chain of command must rigorously screen, investigate, or
review it.

1 After using low-level, Type I force, an officer must screen the incident with a sergeant and
2 complete a report. The sergeant begins the investigation of the incident and elevates the review up the
3 chain of command.¹

4 For intermediate-level, Type II force, a sergeant must respond to the scene in person. The
5 investigation of the force incident is conducted by a sergeant and reviewed by the chain of
6 command. The sergeant must conduct a thorough, impartial investigation, and complete a Use of
7 Force Report that summarizes the incident, documents evidence, and presents witness accounts of
8 the force. Type II uses of force are reviewed in depth first by an administrative lieutenant, through
9 the chain of command to the captain. They must ensure that the sergeant's investigation was
10 thorough and determine whether the force was consistent or inconsistent with SPD policy.

11 To investigate Type III (most serious) force, SPD worked with DOJ and the Monitor to
12 create the Force Investigation Team (FIT), an independent, inter-disciplinary team of specialized
13 detectives who investigate the most serious uses of force, including officer-involved shootings and
14 in-custody deaths. FIT is comprised of experienced detectives who conduct these investigations
15 from both a criminal law and SPD policy perspective. FIT must interview all witnesses whether
16 civilian or officer, a departure from previous policy which allowed officers to submit written
17 statements. *See* Dkt. 231 at 5.

18 The Force Review Board (FRB) provides an additional layer of review for all Type III uses
19 of force, to include officer involved shootings. The FRB also reviews Type II cases when certain
20 factors are present—such as the use of a dog or less-lethal tools. The FRB is a select group of SPD
21

22 ¹ Subsequent revisions, approved by the Court in July 2015, provide for an additional review
23 by the Force Review Unit of all Type II force. The Force Review Unit, comprised of a captain, a
lieutenant, a sergeant, and two detectives, reviews all Type I and Type II uses of force.

1 personnel who are specially trained to investigate officer uses of force which meets regularly to make
2 determinations as to (1) whether a use-of-force investigation is thorough and complete; (2) whether
3 the force was compliant with SPD policy, and consistent with training, and core principles; and (3)
4 whether any broader, systemic issues need to be addressed with respect to policy, tactics, equipment,
5 or otherwise.

6 The new force-related policies took effect on January 1, 2014. Dkt. 231 at 4. Throughout
7 2014, SPD's Education and Training section undertook a "herculean" effort to train all of the
8 Department's approximately 1300 officers on the use of force policies. *Monitor's Third*
9 *Semiannual Rept.* at 7. Highlights of the training include drill and role-playing scenarios for less
10 lethal weapons, a module on de-escalation, including role playing and watching video footage of
11 police-community interactions, and instruction for how to safely and effectively take someone into
12 custody from certain high-risk positions. *Monitor's Fourth Semiannual Report* at 23.

13 The Department also developed and implemented specialized training for FIT. *Monitor's*
14 *Fourth Semiannual Rept.* at 37. In notifying the Court that it had approved SPD's FIT training
15 program, the Monitor reported that the diversity of the training courses provided to FIT detectives
16 "reflects the Department's attempt to provide specialized training specific to investigations not
17 just of force, but of force used by officers" and that "the training plan provides a method for
18 continual learning based on national practices and conversations." Dkt. 254 at 6-7.

19 ii. Crisis Intervention

20 The Consent Decree required extensive reforms regarding how officers interact with
21 members of the community who are experiencing behavioral crisis. DOJ concluded that SPD used
22 a disproportionate amount of force against people in crisis. The Consent Decree requirements in
23 this area address training officers and dispatchers in how to safely and effectively engage

1 individuals in crisis and staffing requirements so that officers with advanced certifications (“CI
2 certified officers”) are available to respond and lead in crisis incidents as appropriate. The Consent
3 Decree also required SPD to establish a Crisis Intervention Committee—a regional interagency
4 coalition of social service providers, mental health experts, law enforcement and judicial
5 representatives.

6 The crisis intervention policy governs officers’ interactions with people who are exhibiting
7 signs of mental illness, suffering from a substance abuse issue, or experiencing a personal crisis.
8 See SPD Manual Title 16.110.² It was written primarily by the Crisis Intervention Committee, with
9 input from the Monitor and DOJ. *Monitor’s Third Semiannual Rept.* at 18. Important goals of the
10 policy are to treat people experiencing a behavioral crisis with dignity and respect and to minimize
11 the use of force in crisis incidents.

12 The policy goes beyond simply establishing guidelines for one-on-one interactions
13 between officers and community members. It established a new Crisis Intervention Program that
14 instilled major changes to organization, operations, and training. The program contains three main
15 components.

16 First, it made organizational changes to give more support to patrol from the Department’s
17 experts in crisis intervention. The unit with specialized knowledge of crisis response was moved
18 out of the Special Operations first to the Patrol Operations Bureau and, ultimately, to the
19 Collaborative Policing Bureau, so that it could be more community focused and more connected
20 to patrol. These officers now take on a more active role in responding to in-progress calls and in
21 providing training and consultation to patrol officers. *Monitor’s Third Semiannual Rept.* at 18. The
22 Crisis Response Unit has specialized teams who “respond to in-progress calls, when available, in
23

² <https://www.seattle.gov/police-manual/title-16---patrol-operations/16110---crisis-intervention>

1 an effort to support Patrol, and conduct outreach with identified individuals. They also are
2 available to respond, at the request of the incident commander, to critical incidents that involve
3 subjects who are in extreme states of behavioral crisis.” SPM § 16.110. CRU also has teams who
4 conduct follow-up after incidents in order to connect people in crisis with community services that
5 can provide long-term stabilizing support.

6 Second, the Department introduced a new position to centralize and coordinate crisis
7 intervention across the entire Department. The Department also introduced the position of Crisis
8 Intervention Team (CIT) coordinator, a sergeant who is appointed by the Chief of Police and
9 provides oversight of the Crisis Intervention Program. The CIT Coordinator is located within the
10 Collaborative Policing Bureau, coordinates crisis intervention training, serves as an expert
11 resource for the precincts, and acts as the SPD’s primary point of contact for the mental health
12 provider and advocacy community. *Monitor’s Third Semiannual Rept.* at 18. The CIT Coordinator
13 works to support the Department in its goal of connecting people with the resources they need,
14 including services from the King County Mobile Crisis Team, the Crisis Clinic, and the Seattle
15 Municipal Mental Health Court. The CIT coordinator is also a non-voting member of the FRB,
16 acting as its subject matter expert on crisis intervention.

17 Training is the third component of the Crisis Intervention Program. All officers are now
18 required to receive a minimum of eight hours of basic training on crisis intervention. The training
19 covers crisis intervention techniques (emphasizing de-escalation and active listening skills),
20 relevant SPD policies, and the King County mental health system. *Monitor’s Third Semiannual*
21 *Rept.*

22 In addition, on a voluntary basis, officers can receive additional, advanced certification by
23 taking a 40-hour crisis intervention course with a certification exam and satisfying an annual

1 training requirement thereafter. Previously, officers with this advanced training were concentrated
 2 within the Special Operations Bureau. By offering the advanced certification to patrol officers, the
 3 Department is able to consistently dispatch highly trained officers to respond to crisis incidents.

4 Training for 911 dispatchers was also implemented. All dispatchers must receive a “three-
 5 hour training that prepares them to recognize individuals experiencing a crisis event or who are in
 6 need of a CIT trained officer; communicating with the individual in crisis; locating CIT officers;
 7 and identifying community mental health resources that can be of assistance.” *Monitor’s Fourth*
 8 *Semiannual Rept.*

9 **iii. Stops and Detentions**

10 In 2011, DOJ concluded that SPD officers were confused about interactions with
 11 pedestrians, specifically the difference between a Terry stop (when the person *is not* free to leave)
 12 and a voluntary, social contact (when the person *is* free to leave).³

13 The distinction is an important one. The Fourth Amendment to the U.S. Constitution
 14 protects people from being arrested without probable cause. In addition to arrests, the Fourth
 15 Amendment also governs Terry stops. A “Terry stop” is a temporary, investigative detention. *See*
 16 *Terry v. Ohio*, 392 U.S. 1 (1968). It occurs when an officer briefly detains a person for the purpose
 17 of investigating a crime. A Terry stop falls short of an arrest and does not require probable cause,
 18 but it does require that the officer be able to identify specific, objective facts which support a
 19 reasonable suspicion that the person committed, is committing, or is about to commit a crime.

20 The Department worked with the DOJ and the Monitor as well as community stakeholders
 21 to formulate a new policy governing Terry stops. SPD’s policy on voluntary contacts, Terry stops,
 22

23 ³ Terry stops also occur when an officer pulls over a car in traffic based on reasonable suspicion, but DOJ’s specific finding related to officers stopping pedestrians.

1 and detentions provides clear, specific guidance to officers about the difference between a
2 voluntary contact and a Terry stop. It directs that Terry stops must be restricted to a reasonable
3 scope and reasonable duration, and makes it clear that officers may conduct a frisk, or pat-down,
4 as part of a stop only if the officer has reasonable suspicion that the subject is armed and dangerous.
5 The policy also contains language on Washington state law which makes it illegal to use one type
6 of crime or infraction as a pretext to investigate an unrelated crime. As described in more detail
7 below, the policy requires officers to document it each time they make a Terry stop and requires
8 supervisors to review the officer's documentation before the end of the shift.

9 By the end of 2014, all SPD officers had received a four-hour comprehensive training on
10 the new policy. *Monitor's Fourth Semiannual Report* at 90-91.

11 iv. Bias-Free Policing

12 In 2011, DOJ investigators determined that SPD used a disproportionate amount of force
13 against people of color and other minority communities. DOJ also raised concerns that Terry stops
14 of pedestrians had a disparate impact on people of color. The investigation further indicated that,
15 when members of the public complained about bias incidents to officers or supervisors, SPD's
16 documentation, investigation, and responses to these complaints were inadequate.

17 The Community Police Commission had significant input into the Bias-Free policing
18 policy and was also heavily involved in developing training around it.

19 The Department's policy defines "bias-based policing" as "the different treatment of any
20 person by officers motivated by any characteristic of protected classes under state, federal, and
21 local laws as well as other discernible personal characteristics of an individual." SPM § 5.140. It
22 also expands the list of personal characteristics that can form the basis for biased policing,
23 including, among others: age; disability; economic or family status; gender or gender identity;

1 sexual orientation; homelessness; mental illness; national origin; political ideology; race, ethnicity
 2 or color; religion; and veteran status. *Monitor's Third Semiannual Rept.* at 16-18.

3 Under the policy, any officer who hears a complaint related to biased policing is required
 4 to call a supervisor to respond to the scene in person. All complaints must be documented and
 5 investigated. In addition, all bias allegations are forwarded to OPA for review or investigation, if
 6 warranted. SPM § 5.140-PRO-1.

7 The Consent Decree requires in-depth training on bias-free policing. ¶¶ 147-49. The
 8 training incorporates input and advice from the Community Police Commission (CPC). *Monitor's*
 9 *Fourth Semiannual Rept.* at 92-93. In describing the important features of the training, the Monitor
 10 wrote the following:

11 [T]he bias-free policing training begins with a section that focuses
 12 on the Seattle community's perception of law enforcement—and the
 13 relationship of those views with concepts of procedural justice and
 14 police legitimacy. Officers discuss why it matters how the
 15 community views SPD even if officers do not agree with the entire
 16 substance or scope of those views. The training 'emphasizes that an
 17 individual's assessment of how she was treated during an interaction
 18 with police is substantially more important to her voluntary
 19 acceptance of police decisions than the outcome of the interaction
 20 (e.g., whether she was cited, received a warning, was arrested, or the
 21 like).' That is, officers learn that the sense that an officer treated a
 22 subject fairly and with dignity can often be disproportionately more
 23 important than the ultimate result or formal outcome of the
 interaction.

Monitor's Fourth Semiannual Rept. at 92-93.

v. Supervision

Another focus of reform was adequate supervision of officers. The Consent Decree
 includes requirements regarding the training of supervisors, adequate numbers of supervisors, and
 providing patrol officers with consistent, clearly identified supervisors.

1 At the time of DOJ's investigation, SPD employed a staffing assignment system referred
2 to as "in-squad relief." Under this system, patrol officers routinely reported to two or more
3 different sergeants during their work week. While they were supervised at all times, they did not
4 consistently report to the same supervisor.

5 Recognizing the lack of unity of command, SPD changed its patrol staffing approach to
6 require that all of the officers within a squad have the same scheduled work week and report to the
7 same supervisor.

8 SPD also developed training specific to supervisors to prepare them for effective
9 leadership. The Monitor described these new training materials as "comprehensive" and observed
10 that they "captured the Department's goals to prepare their sergeants for effective supervision and
11 leadership." *Monitor's Sixth Assessment* at 24.

12 vi. Data Collection and Tracking

13 Prior to reform, the Department's systems for gathering data on uses of force and Terry
14 stops were inconsistent and incomplete. Reporting of force was paper based. The Department did
15 not document officers' interactions with people in crisis at all. The Consent Decree requires SPD
16 to collect and track detailed information about its policing activities in these three core areas: use
17 of force, Terry stops, and crisis contacts. ¶¶ 78, 82-83, 87, 91-96, 100-03, 105-06, 113, 118, 136,
18 163. SPD must also track data over time, review and analyze it for trends or systemic issues, and,
19 in some instances, report it to the public. ¶¶ 90, 99, 137, 162.

20 Throughout 2014 and 2015, the Department introduced new policies in order to satisfy
21 these requirements. An officer is now required to complete a detailed, electronic report each time
22 he or she uses force, conducts a Terry stop, or interacts with a member of the community
23 experiencing a behavioral crisis.

1 Under the Consent Decree and SPD policy, force reporting is required with increasing
2 levels of detail in proportion to the severity of the force used. For Type I (lowest level) force, an
3 officer's report must include a brief narrative entry describing what occurred, a description of the
4 force used, an explanation of why the force was necessary, and documentation regarding which
5 supervisor screened the incident and where the screening occurred. The officer must attach any
6 relevant in-car video or body-worn video to the report.

7 For Type II and III (more serious) force, reports must include the following additional
8 information:

- 9 • The names of any witness officers or civilian witnesses;
- 10 • a detailed description of the circumstances and the law enforcement objective that led up
11 to the contact;
- 12 • a detailed description of the words, actions, or behaviors of the subject that precipitated the
13 need for force;
- 14 • a detailed description of any force clearly observed being used by other officers during the
15 incident;
- 16 • a detailed description of any injury to the subject, any complaint of injury, or the lack of
17 injury, including information about medical aid or medical evaluation performed.

18 The Department also overhauled its data collection for Terry stops. Because of the
19 sensitivity of this topic, the Community Police Commission was heavily involved in the process
20 of selecting which data officers would be required to collect during a Terry stop. Dkt. 143 at 2.

21 The Department's "Terry template" is a place for officers to fill out a consensus list of data
22 elements, including information about the officer's status (on duty or off duty, CIT-certified, years
23 of service), the date, time, and location of the stop, important demographic information about the
subject (such as perceived race), a description of the circumstances giving rise to reasonable
suspicion, and the duration of the stop. The Terry template was first piloted in the East Precinct in
March 2015 and then rolled out citywide. Dkt. 212 at 6.

1 In order to begin gathering data about crisis incidents, the mental health clinicians, social
2 service providers, and other experts on the Department's Crisis Intervention Committee developed
3 a form called a "crisis template," for use by officers in the field. Officer must fill out the template
4 each time they make contact with person experiencing any type of behavioral crisis. Information
5 about the incident must be documented, including, demographic information about the person in
6 crisis, whether a supervisor responded to the scene, if the person was armed, the actions and
7 techniques used by the officer, whether injuries occurred, the name and badge number of the
8 officer, and a description of the event and its outcome. In this way, officers are required to
9 systematically document their contacts with people who are experiencing a behavioral crisis. Dkt.
10 212 at 6.

11 SPD made it possible to aggregate and synthesize much of the data in these reports by
12 introducing computerized templates that officers use to submit the required reports. Officers
13 provide basic information about the incident, the involved officer, and the involved subject by
14 choosing values from drop-down menus or clicking on check-boxes. By making selections from a
15 standardized list, this data can be aggregated, analyzed, and searched to identify trends or draw
16 comparisons. *See* Monitor's First Systemic Assessment.

17 The Department also procured and implemented a customized data analytics platform
18 (called the "DAP"), which extracts data from the Department's various systems and enables it to
19 be systemically analyzed, contextualized, and displayed. The DAP allows SPD, not only to search
20 data relating to use of force, crisis responses, and Terry stops, but also to analyze its relationship
21 to information that is stored in other databases—such as information on arrests, charges, and 911
22 calls. The Department's researchers use the data to answer questions relevant to policy and
23

1 strategy. Command staff also uses “dashboards” powered by the DAP to monitor real time trends
2 in these areas.

3 **B. Between 2015 and 2017, the Monitoring Team Conducted Comprehensive**
4 **Assessments of SPD’s Performance, and the Court Found that They Demonstrated**
5 **the City’s Full and Effective Compliance.**

6 After years of effort developing and implementing new SPD policies and putting them into
7 practice, the parties and Monitor planned ten systemic assessments to evaluate whether those
8 dedicated efforts had resulted in compliance with the Consent Decree. Between Sept 2015 and
9 June 2017, the Monitor conducted these assessments, which comprehensively addressed SPD’s
10 progress in complying with each area of the Consent Decree. The assessments cover 100
11 paragraphs that the Decree presents as the “Commitments” of SPD. ¶¶ 69-168.

12 On January 10, 2018 the Court held that the Monitor’s ten systemic assessments
13 demonstrated that the City, specifically SPD, had achieved full and effective compliance with
14 every requirement of the Consent Decree. (Dkt. 439.)

15 **II. THE CITY HAS SUCCESSFULLY DEMONSTRATED SUSTAINED**
16 **COMPLIANCE THUS FAR IN PHASE II.**

17 **A. The City Is Halfway Through Phase II, During Which It Must Conduct a Series of**
18 **Self-Assessments or Audits.**

19 Prior to termination of the Consent Decree, the City must demonstrate that it has maintained
20 compliance with the terms of the Consent Decree for a period of two years (the “Sustainment
21 Phase” or “Phase II”). In its Order finding the City to be in full and effective compliance, the Court
22 directed the Monitor and the parties to submit a joint plan for Phase II. Dkt. 439. The Sustainment
23 Plan was approved by the Court on March 13, 2018. *See* Dkt. 444 (Sustainment Plan) & Dkt. 448
(Order approving Sustainment Plan).

In contrast to the Monitor-led assessments of Phase I, the Sustainment Plan provides that

the City must demonstrate the ability to independently identify and address any obstacles to compliance in Phase II. Accordingly, the Sustainment Plan sets out a schedule of self-assessments or “audits”, through which the City must self-evaluate whether it has continued to comply. The primary role of DOJ and the Monitor during the Sustainment Phase is to verify the quality of SPD’s audits through their own, independent evaluation of randomly-selected samples of the underlying data.

The Sustainment Plan also establishes a schedule for SPD’s “Outcome Reports.” “Outcome Reports”—unlike audits—are not intended to assess specific requirements of the Consent Decree, but instead whether SPD has achieved outcomes consistent with the Decree’s goal of ending any pattern or practice of excessive force. ¶ 187. They report out to the Court and the public the outcomes of the City’s reform process. These “outcome reports” demonstrate the concrete effects of SPD’s work under the Consent Decree, such as reductions in serious uses of force.

B. The Parties and the Monitor Established a Process to Ensure Accurate, Objective Audits during Phase II.

Since March, the parties and the Monitor have collaborated on developing methodologies for the Department’s audits.⁴ The City’s first Inspector General for Public Safety, appointed last April, contributes to developing the methodologies as well.

These audits, to be performed by SPD, are designed to track the assessments conducted by the Monitor during Phase I.

For quantitative findings, the audits rely on data that SPD began to gather, track, and synthesize during Phase I in order to comply with specific requirements of the Consent Decree. The

⁴ The audits required by the Sustainment Plan are not “audits” in a formal sense, because they do not follow auditing guidelines nor are they conducted by an outside body. The term as used in the Sustainment Plan refers to a self-analysis of data or case files from a specific sampled period of time.

1 robust process for supervisor review of the patrol officers' reports ensures a high level of accuracy
2 and quality in the documentation. In addition to reporting by front-line officers, SPD's policies also
3 address supervision with respect to the quality, accuracy, and thoroughness of documenting and
4 reporting force, crisis incidents, and *Terry* stops. For example, a Crisis Response Unit sergeant
5 reviews all significant incident reports and ensures that, for those that contain crisis indicators, a
6 crisis template has been completed for that subject. *CI Outcome Report* at 52. For reporting on
7 the use of force, the Monitor explained:

8 The [Force Review] Board has clearly communicated to the
9 precincts that incomplete investigations are unacceptable Much
10 of the improvement is due to the new team of sworn and civilian
11 employees who scrutinize the incoming packets and send back those
 that lack required information or detail to the chain of command
 with instructions to complete and return promptly.

12 *Monitor's Third Semiannual Report* at 53-54.

13 Further insurance of objectivity is provided by the Monitoring Team and DOJ. For each audit,
14 the Monitoring Team and DOJ review randomly selected samples of data underlying each report
15 and independently verify SPD's findings of compliance. For the three audits conducted thus far,
16 they concluded that the Department has demonstrated sustained compliance with the Consent Decree.
17 A summary of their findings can be found in the Validation section at the end of each of the City's
18 audit reports.

19 **C. The First Three Audits Conducted by SPD and Validated By the Monitor and DOJ**
20 **Demonstrate Sustained Compliance.**

21 Since the Court approved the Sustainment Plan on March 13, 2018, SPD has timely met all
22 of the milestones set forth in the plan. In accordance with the Court-approved schedule, three
23 assessments have been completed and SPD has demonstrated sustained compliance in the
following areas: (1) reporting, investigation, and review of uses of force; (2) supervision; (3)

1 crisis intervention and the use of force against people in crisis; and (4) use of force outcomes. *See*
2 Dkts. 497-1, 497-2, & 511.

3 Type I and II Force Reporting, Review, and Investigation Audit:

4 In the first audit, the Department found evidence demonstrating that it continues to comply
5 with its reporting, review, and investigation obligations for Type I and II uses of force under
6 paragraphs 100-111 of the Consent Decree. Further, the findings of the audit demonstrate that SPD
7 has continued to improve since the Phase I assessments conducted by the Monitor.

8 In their validation, the Monitoring Team and DOJ concluded that the City “demonstrated
9 that it has sustained compliance with the reporting and investigation requirements of the Consent
10 Decree as they relate to Type I and Type II uses of force” and further noted that:

11 [T]he overall the quality of SPD’s review and investigation was high
12 and the care that officers and their chain of command took in writing
13 reports, reviewing information, ensuring complete reporting,
14 probing issues of concern, and addressing shortcomings was
15 impressive. Both DOJ and the Monitoring Team found it
16 particularly noteworthy that when one level of the review missed an
issue or failed to document something fully or appropriately, the
subsequent levels of review caught the error and returned the
investigation for completion, or otherwise referred it appropriately
to be addressed.

17 DOJ and the Monitoring Team believe SPD’s thorough and
18 established system of internal checks and balances in its force
19 process (reporting, investigation and review) will help ensure
20 organizational accountability from the officer that uses force
through the Chief of Police who is responsible for the process and
its outcomes.

21 Dkt. 497-1 at 22-23.

22 Supervision Audit:

1 The results of the second audit demonstrate sustained compliance with Paragraphs 153,
2 154, and 155 of the Consent Decree. The Department has an adequate number of first line
3 supervisors to respond to the scene of uses of force and investigate. Current staffing policy has
4 achieved unity of command (i.e., officers have consistent, clearly identified supervisors who work
5 the same scheduled work week). Finally, new sergeants receive new supervisor training before
6 they assume their supervisor role, and in no cases after more than 60 days. Pursuant to the
7 Sustainment Plan, SPD will again audit compliance with these requirements in November 2019.

8 Crisis Intervention and Use of Force Evaluation:

9 This audit demonstrates sustained compliance with the Consent Decree requirements for
10 how to safely and effectively respond to members of the community who are in behavioral crisis.

11 Paragraphs 130-35 imposed minimum crisis intervention training requirements for all
12 officers and provide that CI certified officers must be available to respond and lead in crisis
13 incidents. Between January 1, 2017, and June 30, 2018, the Department greatly increased its
14 number of CI certified officers. An additional 118 officers became CI certified in 2017 and more
15 than 80 became certified in 2018 by attending a 40-hour training through the Washington State
16 Criminal Justice Training Commission. Overall, staffing of CI certified personnel in the
17 Operations Bureau increased by 8.2% during this period. SPD's robust training program has
18 allowed it to continue dispatching CI certified officers to calls involving individuals in crisis as
19 appropriate. On average, 60% of personnel assigned to and responsible for 911 response were CI
20 certified. In nearly 80% of crisis calls, a CI-certified officer was on-scene. Although crisis contacts
21 rose by 26 percent in the first half of 2018, compared to 2017, the increased number of CI certified
22 officers allows the Department to maintain consistent outcomes.

1 The Consent Decree also requires SPD to gather and track extensive data regarding
2 officers' interactions with individuals in crisis at Paragraph 136. The data are gathered in the form
3 of "crisis templates" which officers are required to complete after making contact with a subject
4 experiencing any type of behavioral crisis. In addition to simply gathering and tracking data on
5 interactions with individuals in crisis, SPD synthesizes it into annual reports that are published on
6 its website each year. These reports provide the public with a window into the Department's crisis
7 intervention program as well as emerging trends.

8 Finally, Paragraph 137 of the Consent Decree requires SPD to analyze the crisis
9 intervention data that it collects and use it to identify and respond to systemic issues. The work
10 required by Paragraph 137 is carried out by SPD's Crisis Response Unit (CRU). This specialized
11 unit consists of a sergeant, five officers and a mental health professional. CRU reviews and
12 analyzes crisis data collected by the Department and uses it to inform program decisions. For
13 example, CRU has been able to identify members of the community who frequently use crisis
14 intervention services and develop profiles and response plans for them, which are shared with
15 officers in the field. The response plans include information such as, for example, case manager
16 contact numbers or specific techniques that have worked well in the past. Taken together, these
17 tools and policies minimize the need for SPD officers to use force against individuals in crisis.

18 The Department of Justice and the Monitor independently validated the Crisis Intervention
19 and Use of Force Evaluation. Based on their review of a sample of the Department's use of force
20 reports and case files involving people in crisis, DOJ and the Monitor concluded that the Department
21 has demonstrated sustained compliance with the crisis response requirements of the Consent Decree.

D. The Department Has Produced Four Outcome Reports Which Show That Key Metrics Have Remained Steady Since It Achieved Full and Effective Compliance.

Community Engagement Outcome Report and Stops & Detentions Outcome Report:

The first report describes the Department's community engagement initiatives, as well as efforts to recruit police officers who reflect the Seattle community. The second report contains SPD's second annual review and analysis of all Terry stops and detentions.⁵ It showed that SPD does not use no-suspicion "stop and frisk" tactics that are used in some other jurisdictions. Almost 85% of SPD stops occur when officers are dispatched to an incident via 911. Fewer than 10% of SPD stops are conducted by patrol officers walking (or cycling) a beat without being dispatched.

Crisis Intervention Program Report:

The Crisis Intervention Program Report covers the 18-month period between January 1, 2017, and June 30, 2018. Over this period, SPD responded to nearly 16,000 (15,995) contacts with persons believed to be in behavioral crisis; of these, more than 90% were dispatches responsive to calls for service from the public.

These numbers reflect a 12% increase in dispatched crisis-related calls from 2016 to 2017, and a 26% increase in dispatched crisis-related calls during the first six months of 2018 relative to the first six months of 2017. In nearly 80% of these calls, a CIT-certified officer was on-scene.

Of the 15,995 crisis contacts reported, only 277—fewer than 2%—involved any use of reportable force; of the 557 total uses of force across these 277 contacts, three-quarters comprised

⁵ All of the data underlying this report can be accessed and downloaded at <https://data.seattle.gov/Public-Safety/Terry-Stops/28ny-9ts8> Additionally, in April 2018, SPD added to its website a new interface that allows the public to more easily review and understand the data on Terry stops: <https://www.seattle.gov/police/information-and-data/terry-stops/terry-stops-dashboard>

1 no greater than low-level, Type I force, and just 5 (0.9%) were classified as serious force (Type
2 III).

3 The data show that SPD officers are continuing to employ in practice their de-escalation
4 training and crisis intervention skills to offer meaningful support to this vulnerable population,
5 even as the demand continues to rise.

6 Use of Force Outcome Report:

7 The 2018 Use of Force Annual Report contains SPD's review and analysis of all uses of force
8 between January 1, 2018, and December 31, 2018. The report demonstrates that, overall, the rate at
9 which officers use force remains extremely low. Officers reported using force at a rate of less than
10 one quarter of one percent of all dispatches. Type III force (most serious level of force), in
11 particular, is used by SPD officers so rarely that it is considered a statistically random event and is
12 not subject to trend analysis. The overwhelming majority (83%) of incidents in which officers used
13 force involved no greater than Type I force, which is the lowest level of reportable force (such as
14 minor complaints of transient pain with no objective signs of injury, or the pointing of a firearm).

15 In comparison to last year, the reported uses of Type II and Type III force decreased. By
16 contrast, reported uses of Type I force increased by 43%, from 1,272 in 2017 to 1,818 in 2018.
17 The number of out-of-policy findings by the Department's Force Review Board and Force Review
18 Unit is consistent with last year and remains infrequent.

19 The Department is continuing to investigate the potential causes for the Type I increase
20 and has not found a definitive answer, but it expects to learn more over the next few months. The
21 primary cause appears to be officers' overreporting of discomfort caused by handcuffing.⁶ Under
22

23 ⁶ Handcuffing discomfort occurs when the handcuffs are applied properly and no injury is reported, but a subject nonetheless complains of discomfort or minor pain. SPM § 8.050.

1 Court-approved policy revisions that went into effect earlier this month, handcuffing discomfort
2 is no longer reportable as force and, going forward, will be tracked separately, which over the next
3 months will give SPD valuable insight into the reported increase. In addition, the Department
4 recently tested and deployed new handcuffs which are beveled and made of lighter-weight
5 aluminum, and which it anticipates will be equally effective and more comfortable.

6 The Use of Force Annual Report demonstrates SPD's commitment to transparency and
7 evidence-based decision making. The report makes extensive use-of-force data and analysis readily
8 available to the community. Importantly, the Use of Force Report shows that the Department continues
9 to use force rarely and that the number of serious uses of force has declined.

10 **E. CONCLUSION**

11 At the halfway point of the Sustainment Period, the City thus far has successfully completed
12 all of the requirements for sustainment. SPD's audits on supervision; use-of-force reporting, review,
13 and investigation; and crisis intervention demonstrate continued compliance with those requirements
14 of the Consent Decree. These assessments examined the SPD's performance against the benchmarks
15 for compliance that were established by the parties and the Monitor and approved by the Court.
16 According to these agreed-upon measures, SPD's performance has been strong. It has demonstrated
17 continued compliance in all of the areas evaluated thus far.

18 That being said, simple compliance with the Consent Decree is not the benchmark that the City
19 or the Department have set for themselves. Rather, the City is firmly committed to progress and
20 continuous improvement. Since the Court's determination that the City was in full and effective
21 compliance, SPD has continued to make improvements in key areas, for example: increasing public
22 transparency through new user-friendly public dashboards and by partnering and sharing policing data
23 with research institutions; expanding options for crisis intervention by increasing the number of patrol

1 officers with advanced training and creating tailored profiles to help officers in the field respond to
2 people who have been involved in crisis incidents repeatedly; and continually modernizing its
3 equipment to achieve greater safety and effectiveness, such as with its recent deployments of the less-
4 lethal 40 mm launcher and beveled, aluminum handcuffs.

5 Even after the Consent Decree is complete and federal oversight has ended, the City will
6 continue to conduct the assessments, policy reviews, and outcome reports on regular cycles to ensure
7 that reform continues and that the Department remains accountable to the public.

1 DATED this 28th day of February, 2019.

2 For the CITY OF SEATTLE

3
4 PETER S. HOLMES
Seattle City Attorney

5
6 s/ Kerala T. Cowart
Kerala T. Cowart, WSBA #53649
Assistant City Attorney
7 Seattle City Attorney's Office
8 701 Fifth Avenue, Suite 2050
Phone: (206) 733-9001
9 Fax: (206) 684-8284
Email: kerala.cowart@seattle.gov

CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Annette L Hayes	<u>Annette.Hayes@usdoj.gov</u>
Christina Fogg	<u>Christina.Fogg@usdoj.gov</u>
Gregory Colin Narver	<u>gregory.narver@seattle.gov</u>
Kerry Jane Keefe	<u>kerry.keefe@usdoj.gov</u>
Peter Samuel Holmes	<u>peter.holmes@seattle.gov</u>
Jeff Murray	<u>jeff.murray@usdoj.gov</u>
Rebecca Boatright	<u>rebecca.boatright@seattle.gov</u>
Ronald R. Ward	<u>Ron@wardsmithlaw.com</u>
Timothy D. Mygatt	<u>timothy.mygatt@usdoj.gov</u>
Carlton Wm Seu	<u>carlton.seu@seattle.gov</u>
Gary T. Smith	<u>gary.smith@seattle.gov</u>
Hillary H. McClure	<u>hillarym@vjmlaw.com</u>
Kristina M. Detwiler	<u>kdetwiler@unionattorneysnw.com</u>

DATED this 28th day of February, 2019, at Seattle, King County, Washington.

/s/ Kerala Cowart
Kerala Cowart, WSBA #53649
Assistant City Attorney
E-mail: kerala.cowart@seattle.gov